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MEMORANDUM ENDORSED

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LORETTA A. PRESKA
U.S. DISTRICT JUDGE
S. D. N. Y.

July 21, 2004

VIA FACSIMILE

Hon. Loretta A. Preska
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1320
New York, New York 10007-1312

Re: EMI April Music, et al. v. Electronic Arts, Inc. (04 Civ. 3065)

Dear Judge Preska:

We are counsel to plaintiffs in the above-referenced action. We submit this letter jointly with counsel for defendant Electronic Arts, Inc. to request that the Court adjourn the initial pre-trial conference scheduled for July 22, 2004, at 9:00 a.m.

By notice dated June 28, 2004, the Court initially set the conference for July 27, 2004. By letter dated July 13, 2004, counsel for defendant requested that the conference be rescheduled for July 22, 2004. While we initially consented to that request, as a result of our client's unforeseen unavailability due to summer vacation plans, we have been unable to consult with our client in advance of the conference and therefore unable (i) to confer with defendant in accordance with Federal Rule of Civil Procedure 26(f) and (ii) to submit to the Court a proposed scheduling order in accordance therewith. For this reason, the parties request that the July 22 conference be adjourned.

Further, because of the difficulty of arranging dates in August for the initial pre-trial conference, as a result of longstanding, prior conflicts of counsel for both parties, the parties jointly request that the Court adjourn the initial pre-trial conference until the morning of September 8, 2004 (or of September 10, 2004, or such other date as would be acceptable to the Court and the parties), providing the parties ample opportunity to confer in accordance with Rule 26(f) and provide the Court a timely proposed scheduling order. To this end and to insure that the requested adjournment does not unnecessarily delay this action, counsel for the parties have agreed to confer in accordance with Rule 26(f) expeditiously once both counsel have had an opportunity to consult with their clients and to exchange initial disclosures, in accordance with Rule 26(a)(1), during the month of August (at a time to be agreed upon) in advance of the initial case conference.

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We thank the Court for consideration of this request.

Respectfully submitted,

Gregory A. Clarick

cc: Dale Cendali, Esq.

The July 22 conference is adjourned to September 8 at 9:00 a.m.
Counsel are reminded that adjournments should be sought in a timely manner so that the time slot is not wasted.

SO ORDERED
Loretta A Preska
UNITED STATES DISTRICT JUDGE

July 21, 2004